IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO : 698 of 2005

Between:

G. Gopal Raju S/o Chenchu Raju, Fair Price Shop Dealer,
Thangella Village, Marripudi Mandal, Prakasam District.

..... PETITIONER

AND

1 The Joint Collector, Ongole, Prakasam District
2 The Revenue Divisional Officer, Kandukur, Prakasam District
3 The Mandal Revenue Officer, Marripudi Madnal, Prakasam District
4 Shaik Beebi W/o Chand Basha,
No. 056242, Thangella Vilalge, Marripudi Mandal, Prakasam District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more one in the nature of Writ of Mandmaus declaring the action of the 1st respondent in not passing any orders on the stay petition filed by the petitioner along with the appeal No. Rc. CS2/324/2005 as illegal, arbitrary and violative of Principles of natural justice and consequently suspend the proceedings of the 2nd respondent issued in Rc. F. 2675/2004 dt 14-12-2004 during the pendency of appeal No. Rc. F. 2675/2004 dt 14-12-2004 during the pendency of appeal No. Rc. CS2/324/2005 filed by the petitioner before the 1st respondent.

Counsel for the Petitioner : MR.M.SUBBA REDDY

Counsel for the Respondents 1 to 3 : GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

The petitioner is a dealer of the fair price shop, appointed 20 years back. He was issued a show cause notice, dated 20-09-2004, by the 2nd respondent, and the petitioner was required to submit his explanation as to why appropriate action should not be taken against him. Four allegations were made against the petitioner. The allegations are to the effect that the petitioner is collecting higher prices from the card holders for the essential commodities; not supplying sugar; did not produce the register; and did not get the authorization renewed. The petitioner submitted his explanation on 30-11-2004. The 2nd respondent passed an order, dated 14-12-2004, suspending the authorization of the petitioner. Aggrieved thereby, the petitioner preferred an appeal before the 1st respondent together with an application for stay. The grievance of the petitioner is that no orders have been passed by the 1st respondent in the application for stay so far.

Heard learned counsel for the petitioner, learned Government Pleader for Civil Supplies and learned counsel for the 4th respondent, who filed the caveat.

The petitioner availed the remedy of appeal against the order of suspension. He also filed an application for stay. The limited grievance of the petitioner is about the interim orders, pending the appeal. The delay in disposal of the application for stay is likely to defeat the very purpose of preferring the appeal.

The 2nd respondent had issued a show cause notice to the petitioner directing explanation on certain allegations. This step was taken, obviously, in compliance with clause 5 (4) of the A.P. State Public Distribution System Control Order, 2001 (for short "the Control Order"). In the order passed on 14-12-2004, the 2nd respondent had only observed against each charge that explanation offered by the petitioner is not satisfactory. Thereby, the entire process of issuing show cause notice is reduced to an empty formality.

Under Clause 5(4) of the Control Order, suspension, as a penalty, can be ordered after issuing show cause notice. The 2nd respondent complied with the same. However, any suspension, as a substantive penalty, can be only for a specified

period. The question of suspending the authorization for any definite period after issuance of show cause notice does not arise.

For the foregoing reasons, the writ petition is allowed directing that the order passed by the 2nd respondent suspending the authorization of the petitioner shall remain stayed, pending disposal of the appeal by the 1st respondent. There shall be no order as to costs.

27-01-2005

Note: Furnish C.C. in three days.

(B/o) GJ

To

1 The Joint Collector, Ongole, Prakasam District
2 The Revenue Divisional Officer, Kandukur, Prakasam District
3 The Mandal Revenue Officer, Marripudi Madnal, Prakasam District
4 Two C.Cs. to the Government Pleader for Civil Supplies, High Court of A.P., Hyderabad. (OUT)

5 Two C.D. copies.